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# **Outsourcing the ‘best interests’ of unaccompanied asylum seeking children in the era of austerity**

Rachel Humphris and Nando Sigona

## **Abstract**

This article examines the governance of unaccompanied asylum seeking children (UASC) and former UASC in the UK and reveals the expanding reach of asylum privatisation to unaccompanied children. In the process, the principle of the ‘best interests of the child’ enshrined in international and national law is being reconfigured through practices of service outsourcing and out-of-county placement that are used to distance local authorities (LAs) from their statutory responsibilities. Drawing on a mixed-methods approach that combines quantitative data on the distribution and circumstances of UASC and in-depth qualitative interviews with service providers, we identify three intertwining processes that contribute to redefining ‘best interests’: firstly, the increasing distance in goals and priorities of managers and frontline workers is exacerbated by the emergence of new actors operating within the for-profit sector; secondly, decisions based on budget saving goals lead to young people being moved around the country undermining their capacity to access support; thirdly, restructuring and mainstreaming services for UASC misplace the expertise needed in this complex area. As a result of these processes, spaces for resisting such changes are increasingly restricted and ‘best interests’ are reshaped in ways which frontline workers think may be detrimental to the wellbeing of children and young people.

## **Introduction**

This article investigates the governance of unaccompanied asylum seeking children (UASC)<sup>i</sup> and former unaccompanied children, or ‘care leavers’<sup>ii</sup> in the UK focusing on how these processes unfold at the local level in the so-called era of austerity. It frames the analysis of the empirical data in a context marked by the neoliberalisation of the state and the consolidation of a global migration and refugee industry. It identifies changes in the current system that can be traced back to the expansion of market logics and private actors in the asylum system driven by the policy goal of creating a ‘hostile environment’ for all migrants. The main contribution of this article is to cast light on the expanding reach of asylum privatisation to unaccompanied migrant children and how it impacts on frontline social workers who must abide by changing duties and demands informed by austerity-driven goals while also seeking to defend the best interests of children in their care<sup>iii</sup>.

Until recently lone asylum seeking children have remained relatively sheltered from the marketization of asylum, if not from increasingly hostile migration and refugee policies (Crawley 2006; Bhabha and Schmidt 2008), with local authorities (LA) retaining a strong mandate to look after them enshrined in the law. In this article we empirically investigate how the marketization of asylum generates new actors, and different priorities in the governance of unaccompanied children and how statutory and non-statutory actors, operating within not-for-profit and for-profit logics, adjust their daily interactions in four localities<sup>iv</sup>. Rather than weakening state power, these commissioning arrangements signal a consistent mode of state governance that diffuses power through targets and funding mechanisms (Dubois 2014: 46). Ultimately, we argue that the principle of the ‘best interests of the child’ is being reconfigured by the market logic whereby UASCs are increasingly commodified as ‘raw materials for private profit’ (Welch 2000: 73; Menjívar and Perreira:forthcoming), and

practices of service outsourcing and out-of-county placement are used to distance LAs from their statutory responsibility to act in the best interests of this population (see Gill 2016).

This article fills an important gap in knowledge regarding how policies are implemented and services are provided to UASC in the UK in the age of austerity policies. We present the first nation-wide mapping of how unaccompanied children are moved across the country, and, drawing on in-depth qualitative interviews with frontline workers, we shed light on how and why children are moved and with what effects. The article is divided into three parts: firstly, we outline the position of unaccompanied asylum seeking children in the British legal system and discuss where and with whom responsibilities lie for the ‘best interests’ of UASC. We also consider the changes introduced to the protection system since austerity measures were introduced in 2010. Secondly, the article places these systemic changes in the context of the neoliberalisation of the state, in particular the scaling back of local services following the financial crisis of the early 2000s, the emergency of for-profit logics within public services particularly with regard to the governance of asylum. Thirdly, drawing on the responses to Freedom of Information (FOI) requests to all LAs in England and in-depth qualitative interviews with statutory and non-statutory actors involved in the governance of UASCs at strategic and frontline levels, we demonstrate how market logics are infiltrating the care and support provided to UASC and reshaping the relationship between different actors tasked to ensure their ‘best interests’. Finally, we identify the spaces and tactics of resistance that some frontline workers mobilise to ensure children’s best interests remain at the core of their practice.

### *Methodology*

The paper draws on a mixed-methods research approach that combines a Freedom of Information (FOI) request survey of all LAs in England with in-depth semi-structured interviews in four localities. Nation-wide data on unaccompanied children in the UK are

patchy and mostly cover issues related to the legal status. Due to their statutory responsibility, LAs are best placed to collect data on outcomes for young people. Therefore to address the data gap, we submitted FOI requests in order to build a national map of UASCs and former UASCs from local level data. The limitations of FOI requests such as their potential to provide a skewed overview of the data were overcome through our mixed methods approach. The FOI questions were designed to complement and contextualise the qualitative interviews (Savage and Hyde 2014). In addition, the research team employed an iterative process through continuing discussions with those completing the FOI request to ensure that the most relevant and comparable data were obtained (Walby and Larsen 2012). The FOI request asked nine questions about the numbers, profiles, definitions and policies relating to UASCs and former UASC care leavers who have reached 18 years old for a three-year period (2012-2015) (Humphris and Sigona 2016). It was sent to 152 LAs in November 2015 and 141 responses were received (93%).

Utilising the data from the FOI requests, we chose four LAs with differing and contrasting characteristics to carry out a more in-depth analysis of FOI findings. The LAs were chosen because they represented a wide geographical spread across England and have high or mid-ranking numbers of UASC and care leavers ranging from 16 to 147. In addition, they represent a mix of responses from the FOI request including numbers of missing children; support granted in addition to Home Office grant funding; Human Rights Assessments and support for appeal rights exhausted young people. The LAs included one metropolitan district council, one non-metropolitan district council, one unitary authority and one London borough council (See Appendix). Three areas were in the top ten most deprived LAs in England and one was in the top twenty (Office of National Statistics 2015).

Interviews were conducted between January and July 2016 in four locations across England. Interviewees were sampled to cover different service providers and models of

organisation (statutory and non-statutory or profit and not-for-profit). Having gained full ethical approval by the University of Oxford's Research Ethics Committee (CUREC), representatives from organisations providing services for UASC were contacted and asked for an interview (see Appendix).

The majority of interviews were conducted in the interviewees' place of work or in a convenient location where they felt comfortable. Interviews lasted between one and two hours and were recorded and transcribed in full. Data were anonymised during the transcription process and identifying codes were allocated to each transcript. Data were coded using a computer-assisted thematic analysis approach (Guest et al. 2011) to identify the key issues raised by respondents. This involved interpretive code-and-retrieve methods wherein the data was transcribed and read by the research team who together identified codes and then undertook an interpretative thematic analysis. The quotations used in this paper were selected on the basis of their ability to illustrate those issues.

### **Legal boundaries of protection for unaccompanied asylum seeking children in the UK**

Children's rights are internationally enshrined in the Convention on the Rights of the Child (UN General Assembly 1989, henceforth CRC) ratified by all United Nations member states, except for the United States. International instruments, such as the CRC, formally offer considerable protection to migrant children regardless of their legal status (CRC General Comment No. 6). However, the enforcement of such international legal instruments depends crucially on their incorporation into domestic law. In the UK, for example, the CRC was ratified in 1991 but its incorporation into national law took much longer. The Children Act 2004 introduced the duty of regard for the welfare of children to all state agencies (noteworthy is the initial exclusion of the Border Agency). It also set out a statutory framework for local co-operation to protect children. All organisations with responsibility for

services to children must make arrangements to ensure that in discharging their functions they safeguard and promote the welfare of children.

Local authorities have duties to support all children ‘in need’ in their area. The basic scheme for supporting children in need is found in Part III of the Children Act 1989. In contrast to adult asylum-seekers and families who are provided with asylum support from the Home Office, LAs are responsible for supporting unaccompanied asylum-seeking children. LAs receive funding from the Home Office for this, paid at a daily rate, by sending monthly returns, though this funding does not necessarily cover all the costs involved. Unaccompanied children are eligible for all services that are provided by the LA to all children in their care in the UK including education, housing and health services. The LA may work in partnership with other public agencies, the voluntary sector, children and young people, parents and carers, and the wider community in order to safeguard and promote the welfare of children.

Despite these legal safeguards, research in the UK indicates how precarious migration statuses impact on children’s livelihoods, everyday lives and life chances (Anderson 2007; O’Connell Davidson and Farrow 2007; Sigona and Hughes 2012; Bloch et al. 2014; Chase 2010). A further barrier to an unaccompanied child accessing support is the LA disputing the age of a child (Cemlyn and Nye 2012; Chase 2006; Hjern et al. 2012). There are also concerns that unaccompanied children cannot access sufficient and effective legal protection following changes to funding legal aid (Connolly and Pinter 2015). The obstacles for migrant children to access services has led scholars to argue that children in the immigration system are treated primarily as migrants, and only secondly as children with particular rights and needs (Crawley 2006; Sawyer 2006; Giner 2007). Policy-making for migrant children has been characterised by oscillation between greater restrictions – in line with the overall trend in asylum and migration policy making (Zetter et al. 2003, Geddes 2003) – and targeted

policy concessions to accommodate rising internal and international concerns relating to the treatment of child migrants.

The UK Home Office definition of an Unaccompanied Asylum Seeking Child (UASC) is a person under 18, who is applying for asylum in his or her own right, and is separated from both parents and not being cared for by an adult who in law or by custom has responsibility to do so. The duty of care for these children is governed by the Children Act 1989 (as amended by the Children and Young Persons Act 2008). When a child reaches 18 years old the duty to the young person is held within the Care Leavers (England) Regulations 2010. This Act was amended in 2014 to require that such duties are fulfilled with particular regard to the child's circumstances and needs as unaccompanied or trafficked. Data are particularly scarce for former UASC care leavers and their trajectories once they reach 18 years and are no longer considered to be a 'child'.<sup>v</sup> The Immigration Act 2016 changes the nature of support for UASC care leavers who have exhausted their appeal rights ('Appeal Rights Exhausted' or ARE). Former lone children who have reached adulthood in the UK and have not established a protection claim for asylum will no longer be supported by LAs but by the Home Office. This signals an erosion of the capacity of LAs to define and protect the best interests of lone children and care leavers under their care.

A further policy change was introduced in July 2016 that allows the duty of care for a child to be formally 'transferred' from one LA to another. The 'transfer protocol' does not replace the previous system (out-of-county placements still occur where only the child is moved, rather than both the child and the statutory duty to care for the child) however, the transfer of duty of care from one LA to another is crucial because it indicates the movement of budget responsibility for the child and therefore reflects the different logic that underpins the new system. The protocol was established in order to 'ensure that any LA does not face an unmanageable responsibility in accommodating and looking after UASC simply by virtue



of being the point of arrival of a disproportionate number of UASC' (Home Office, 2016). The transfer protocol establishes that an 'unmanageable responsibility' is above 0.07% UASC to child population. Previously, wherever a child came to the attention of a LA, the same LA would take responsibility for the child. The transfer protocol came into effect after we completed the interviews detailed in this article, however it is important to note these policy changes as they demonstrates the shift in the underlying logic for looking after UASC<sup>vi</sup>. This protocol therefore formalises the changes that witnessed throughout our research. The defining characteristic of providing children's services to UASC has now been unsettled to one that paves the way for children to be looked after where they do not represent a '*burden*' on the LA concerned, this term constituting a fundamental shift in the way lone children are framed in policy discourse.

The responsibility for UASCs is devolved to LAs in the UK. Although statutory provisions contain guidance regarding the care UASC and former UASC care leavers should receive, little is known about the implementation of these policies at the local level. Previous research shows that the treatment of UASC varies considerably across LAs in the UK (Kohli & Mitchell 2007; Matthews 2014; Stanley 2001; Wade et al. 2005; UNHCR/UNICEF 2016) since LAs interpret their duty vis-à-vis UASC and former UASC differently.

Repeated cuts to LA budgets due to austerity measures, fuelled by the 2007 financial crisis, have further polarised such experiences with more wealthy LAs being able to maintain services no longer available or only partially available elsewhere (Connolly & Pinter 2015). Budget reductions have led to the fragmentation of public services through the imposition of financial targets in welfare services and the rise of 'new public management' (Andersen 2005; Clarke 2005). These reforms have also impacted on children's services and adversely affected frontline practice, particularly that of social workers (Hek et al. 2012; Jones 2015; Parton 2011; Rogowski 2011; Sidebotham 2012).

In this article we argue that the austerity-driven rollback of the welfare state (see Blyth 2013) and the increasing pressure for LAs to cut budgets shape the care provided to unaccompanied children. First, formal and informal systems of outsourcing care and support are being created, framed mostly in a dual narrative of ‘burden sharing’ and ‘efficiency/value for money’. Unaccompanied children are increasingly relocated to different areas of the UK. We compare the narratives of frontline workers and the conflicting and converging justifications of these processes and their effects. Second, there is a tension between those who manage children’s services and are tasked with cutting budgets, managing Home Office funding regulations and implementing a narrowing definition of safeguarding and those at the frontline who are trying to balance children’s best interests within a tightening migration system designed to make the UK an increasingly hostile environment for all migrants (The Telegraph 2012). Third, paths of everyday resistance are created.

### *The privatisation of asylum*

For Macklin (2002: 2018), given ‘the apparent political consensus affirming the state’s monopoly to police borders, immigration policy seems an unpromising place to look for evidence of privatization, if by this one means the retraction of the state’. Nonetheless, we are witnessing a twin process of privatization and delegation in which states gradually delegate authority and outsource services from governmental administrative agencies to private and other non-state actors (Kritzman-Amir 2011: 199-200).

The call for the private ‘for profit’ sector to play an enhanced role in the refugee regime has reached unprecedented height during the Mediterranean refugee crisis and the quest for sustainable solutions to forced displacement. The New York Declaration signed off by world leaders at the United Nations for Refugees and Migrants summit in September 2016 included thirteen references to the ‘private sector’ and its role in the emerging global migration and refugee governance (UN 2016). But the involvement of the private sector in

the governance of migration and asylum is not new, neither at the global level or in industrialised western states (Gammeltoft-Hansen and Sorensen 2013; Betts 2013). The involvement of private contractors in the immigrants' detention business in the US (Golash-Boza 2015) is perhaps the first large scale example at the national level of the emergence of the migration industry. Border technology contractors have gained pace more recently following the alleged failures of 'fortress Europe' (Andersson 2014; Menjívar and Perreira: forthcoming).

Betts (2013) argues that a rising number of actors, primarily profit-motivated, engage in activities relating to human mobility and exercise a growing influence on the way global migration and refugee regimes operate and evolve. Operating on different geographical scales, these new actors can be located along a wide spectrum that goes from international criminal networks facilitating irregular border crossings in breach of national laws, to multinational corporations interested in corporate social responsibility and to be associated with humanitarian agencies for brand development, to border technology firms sourcing drones and high-tech sensors to states to stop irregular migrants, and not-for-profit local service providers who have taken on responsibility for front-line services from the neoliberalised state (Menz 2013). The involvement of new actors in the asylum system generates new policy dynamics as they 'bring their own agendas and interests to the table, influencing the politics and economy of asylum regimes' (Kritzman-Amir 2011: 200). Menz (2013: 111) identifies three ways in which this shift creates new policy dynamics: (1) 'path-dependent lock in effects' produce their own self-perpetuating and self-justifying logic; (2) 'regulatory capture' makes the system more complex so that it enables private actors to exert their 'expertise' and influence policy decision making; (3) outsourcing distances the state from legal liability and political accountability (see Gill 2016). Betts also observes together with the growing role of private actors, the emergence of so-called 'markets for migration',

defined as the way in which human mobility, particularly with regards to facilitation, control and rescue, is ‘increasingly subject to processes of commodification and competitive exchange’ (2013:45).

In the UK, for-profit actors rapidly expanded their reach in the asylum system since the early 2010s. ‘From the profits made by private security firms from the UK’s detention estate to exploitative charges for poor legal advice, asylum has been an issue of public policy from which profit has long been sought’ (Darling 2016: 2). The introduction of the COMPASS contracts in 2012 which outsourced accommodation provision for asylum seekers to large multinational firms in UK however is deemed a turning point in what Darling (2016) convincingly describes as the privatisation of asylum in the UK. These contracts transferred accommodation provision from a mixture of consortia of LAs, social housing associations and providers to just three private contractors. Crucially, increasing subcontracting of services reshapes the relationships between different organisations supporting lone children with legal migration status issues. Rather than weakening state power, these commissioning arrangements signal a consistent mode of state governance that diffuses power through targets and funding mechanisms (Dubois 2014: 46).

In this article, we argue that the privatisation of asylum and the creation of market logics is gradually co-opting the governance of unaccompanied children through outsourcing of services, weakening of the LA’s duty of care vis-à-vis UASC and geographically distancing them through out-of-county placement.

### **Outsourcing UASC’s ‘best interests’**

This section presents our quantitative data to demonstrate that use of ‘out-of-county placements’ for unaccompanied children has increased, while at the same time knowledge of

this practice in the receiving LAs has decreased. Successively, qualitative interview data with frontline workers is used to identify why children are being moved and the impacts for frontline workers who are tasked with upholding unaccompanied children's best interests. We argue that different logics justify placing children 'out-of-county' and these rationalities affect how best interests of the child are considered. Finally this section foregrounds the additional bureaucratic barriers that children face in transition at 16, 18 or when support ceases at 21 or 25 years old, further illustrating how the new system places frontline actors in a position where they become less able to define and act upon their assessment of a child's best interests.

The responses from the FOI requests provided an indication of the complex picture of the regional differences between LAs regarding the care of UASC. The FOI requests revealed that increasing numbers of children are placed outside the LA responsible for their care, and fewer children are formally known to the LA in which they are physically placed. For example only 17 LAs reported that they had been informed that a UASC had been placed in their LA from a different LA.

#### **Table 1 here**

It is important to note that the receiving LA is notified that the child placed in their geographical jurisdiction is a looked-after-child, but not that they are an asylum seeker. Therefore there is no national picture available of where UASC children are moved. However, the new empirical data we gained from FOI requests provide an indication of the 'sending' LAs as we illustrate in Map One.

#### **Map 1 here**

The map we produced from our FOI requests illustrates the widespread phenomenon of moving children from the LA which holds the statutory duty to look after them. Crucially, the FOI requests could not generate data on where children were relocated or the reason for

their placement outside of the responsible LA. Therefore, we conducted qualitative interviews to explore the justifications and effects of placing children outside the LA with the duty to care for them. The following section uses the data gained from qualitative interviews with frontline workers to argue that the logics that justify placing children ‘out-of-county’ erode the best interests of the child through this practice.

### *Justifications for moving children*

Placing children in different LAs was frequently justified in terms of cost savings and the lack of affordable accommodation. Less attention was given to the capacity of LAs to fulfil their duty of care towards outplaced UASC. This approach manifests from the moment a child comes to the attention of the state. The child becomes a site of contention between neighbouring social services foregrounding the salience of geographical borders because of the financial implications of assuming duty of care. An NGO worker commented:

‘they have batted the child back to the previous [LA]. You know somebody has got off a lorry in xx that is another LA. So they are trying to bat it back to the previous LA because it is all about money today isn’t it?’ (LA 2).

Similar descriptions of LA practices emerged across the four localities highlighting how LAs try to restrict the number of UASC children in their care. As an NGO worker described ‘Most young people get off in xx. The head of service is very good at asking where exactly the young people got off and if it is one metre over the city boundary then they won’t take them’ (NGO worker, LA 4). Budget restrictions for UASC therefore shape the responses and relationships between frontline workers and children from the outset and reinforce the policy construction of the children as a financial and political burden.

The pressure on frontline services and the subsequent redefinition of ‘best interests’ are brought into stark relief by how services are restricted. For example, children do not gain

the educational support they are entitled to when they are moved to a different geographical area. An NGO worker stated:

‘there is a guy who works in college, he is called the Skills Coordinator, for all care leavers. Young people who are not supported by our LA don’t get his support... they are just completely outside of the system’ (NGO worker LA 1).

In addition, the outplaced child has a weakened link to their social worker and the ‘receiving’ social services have no duty or reason to support the child in their area. Where frontline workers endeavour to informally fill this gap, a tension emerges with managers who are required to implement budget cuts. As one retired school teacher describes,

‘I had a wonderful boss he helped us set up a special project in a school here and so we took all those kids into that project and it all kick started as it were. And we also took a lot of young people from xx as well, which was really the death knell for it because no-one was paying for their provision. And when we only had very few youngsters from here and a lot from xx they got wise to it and decided that they would pull the rug out from under it’ (retired school teacher LA 3).

It is important to note that young people who are in need of foster care whether they have migration status issues or not, are also subject to out of county placements around the UK. However, unaccompanied children have specific issues that are exacerbated by movement from their social worker. Social workers consistently stated that the main differences between UASC and other looked after children was the lack of history and awareness of the child’s ‘background’. This lack of information about a child is intensified by moving young people out of the LA that has a duty to care for them. The intersection of geographical and bureaucratic borders affects the legal, education and mental health services provided to young people. Placing children out-of-county makes it increasingly difficult for service providers to provide support that serves their best interests. Two further justifications

were described for moving children 'out-of-county'. The first was linked to lack of alternatives by one social worker:

'There are rules that say you should place everybody in the borough... but quite often you haven't got a choice' (Social worker, LA 3).

Children who are under 16 years old must, according to statutory guidelines, be placed in foster care. In practice, however, there is a national shortage of foster carers in the UK and social workers commented that recruiting and training foster carers is expensive and time-consuming. Therefore short term savings were made to limit spending on training foster carers resulting in longer term expenditure and reduced services. Often, LAs are forced to use a centralised private fostering agency which is more expensive than having their own trained foster carers as explained by a social worker: 'there are massive cost implications because they're in independent fostering agencies. So the placement is around £1000 a week' (Social worker, LA 1).

Finally, it is important to note that a different logic was expressed by social workers in a LA which was not subject to such strict budget cuts. A social worker described how she could choose where to place the lone children the LA had a duty to support,

'it is very white and middle class and not culturally appropriate for them here. In xx there are culturally appropriate foster carers or flats. I really care about the young people. And I fight for them. I want good experiences. Good service for them, good legal support, I go with them to all of their appointments. Some LAs don't have capacity to that.' (Social worker LA 4)

This distinction illustrates the ability of frontline workers to define children's best interests differently when they have resources. Although children are moved in LA4, the social worker has the capacity to maintain a strong supporting role. The different justifications are crucial to the trajectory of the UASC through the support system, particularly at transition stages.



### *Outsourcing and risks at transition*

As shown above, cost was often the defining justification for moving children, increasing their risks at transition stages such as the age for compulsory foster care (16 years old); moving into care leaving services (18 years old); or when the LA ceases to support them (if they become ‘appeal rights exhausted’). For example, one NGO worker commented that a LA immediately placed children in cheaper semi-independent accommodation when they reached 16 years old rather than keeping them with foster carers due to cost ‘We had an issue with xx – budget requirements meant they had to be pulled back to xx. They were pulled back as soon as they hit 16’ (NGO worker LA 4). Movement around the country can erode young peoples’ support networks and education. An NGO worker commented ‘there are a few young people at college who are looked after outside of xx. I mean the issue for example for one of them is he is becoming eighteen and he is not going to be housed in here. So this is where he has got all his roots, he has had his foster placement here, he is at college here’ (NGO worker LA 1). Furthermore, if a young person becomes appeal rights exhausted they are stranded in a LA that has no record of them or duty to support them. A team manager in one LA said ‘if the local authority was holding people on to 21 years old and then simply saying that the leaving care provisions had come to an end, they can just literally withdraw accommodation and that person will effectively end up being homeless in a completely different part of the country. This may increase the risks of homelessness amongst that group in that area if the other authority starts cutting off support.’ (LA manager LA 3).

This section has explored how the neoliberalisation of the state manifests in the complex intersections of geographical and bureaucratic borders for children who are subject to immigration control, in particular justifications for moving children are primarily based on cost savings. Children’s best interests are redefined when social workers, guided by budget

cuts, have no choice regarding their placement. The ‘sending’ LA is not able to define and act upon a child’s best interests when they are ‘out-of-county’ due to resource constraints and lack of geographical proximity compounded by bureaucratic boundaries. The ‘receiving’ LA is not aware that looked after children placed in their area are asylum seekers. If the child is brought to the attention of the ‘receiving’ LA they operate a ‘gate-keeping mentality’ in order to protect their budgets. This section has also argued that the effects of this movement, coupled with the justification for movement which is focused on cost, are heightened during transitions at certain ages (16, 18 and leaving care) which are inextricably linked to the grants provided by the Home Office to LAs at these different life stages.

### **The marketization of children’s asylum system and everyday practices of resistance**

The responses to limitations imposed by budget cuts and restructuring services are shaped by different actors’ experiences, background and institutional positions. Social workers identified how standard practices were being eroded ‘some principles like a social worker going with a child to an appointment with the Home Office, a few years back that would have been the basic procedure... whereas now you will get a social worker say they can’t go along, the child will have to go on their own’ (personal advisor LA 3). The restructuring of UASC children’s services was viewed as positive in principle because it was purportedly implemented through the rationale of mainstreaming. However, in practice it exacerbated problems of budget reductions,

‘I think definitely their [social workers] heart is in the right place. But because there is no central team. A person might only have one or two asylum seekers on their particular case load... So because they are being spread out across a number of areas I think the knowledge base is less (NGO worker LA 2).’

Social workers' increasing workload with decreasing resources and the mainstreaming of UASC in broader children's services, it was said, has led to a reprioritisation of the client group and, contextually, to the shrinking of the definition of safeguarding towards UASC. A manager in a LA Children's services department stated that:

'I mean I know that potentially councils should be working closely with some of the legal advisers in their authorities, but there is a dwindling pot of money and you know there are other pressures... These are all like pie in the sky things that no-one has got any time for...' (LA manager LA 3).

Due to restructuring and budget limitations, previous basic standards become 'utopian goals'. Crucially, it was noted that social workers have decreasing capacity to define the terms on which they are able to conduct their work.

One example of this reduced capacity is the pressure on social workers to conduct Human Rights Assessments and withdraw support from UASC care leavers who have not been able to establish a successful protection claim. This practice also contradicts the purpose of care leaving services to provide support for young people in order for them to successfully transition to adulthood, 'we will do whatever we are allowed to do under the legislation, but that is when it cuts off and the Children's Act just becomes null and void. The Immigration Act, it is the Act. So yes it is very stressful for everybody concerned' (Social worker manager LA 2). The additional demands on social workers and the contradictions of these demands with professional standards may also shift definitions of best interests, 'social workers start to disengage to protect themselves because they can't do anything that is outside their statutory duty' (NGO worker LA 4).

Budget pressures therefore lead to abrupt separations between young people and social workers, described as also being shaped by the increasingly pervasive influence of the Home Office. A social worker stated that 'any person at twenty-one that ends their care we

don't say "Go away and never talk to us again". You know I always say "look this is my mobile, if you are in a crisis or you need signposting anywhere let me know." But if the Home Office ask I have an obligation to tell them where they are living' (Social worker LA 2). The lack of resources leads social workers to draw support from the Home Office despite recognising this may have adverse consequences for young people,

'Now it is the Home Office that runs voluntary return and I emailed them months ago about one person, they have not got back to me, so I don't know how efficient that is. That would be my main worry. Certainly as far as our resources are concerned - great - and if the Home Office are prepared to do a good job supporting people, then fair enough, because you know we haven't got the money really to do the job that I think is necessary. But I think more likely they will just get scared and go underground' (Social worker LA 1).

As a result of these statutory obligations to notify the Home Office of young people's whereabouts, trust in social workers was said to be jeopardised by those who should be working in partnership with them to ensure the best interests of the child are maintained. An ESOL teacher noted that, 'They all say that they don't know how much to trust their social workers because their social workers do have a role which is linked to the Home Office' (ESOL teacher LA 1).

Yet the positioning and power of the Home Office was said to not only affect young people's relationships with social workers but also the interface with other services. Social workers were said to be constantly negotiating access for young people, 'I think the hardest bit for us is the fact that everything is different. You go to the hospital with them; it is not "are you ill? What is wrong with you?" It is; "are you allowed to be here? Have you got a national insurance number?" They ask that before they ask you what is wrong. And surely that is the wrong way round' (Housing manager LA 4). Children's best interests, therefore,

are shaped by the tightening immigration system that aims to make the UK an increasingly hostile environment for all migrants.

These changes were also explained in very negative terms by social workers. Those who did not shift their modes of working in response to new targets and limitations became physically unwell, placing more pressure on those who remained. One former social worker reflected that the combination of the growing role of the Home Office; the lack of support to cope with supporting lone children with trauma; and the limitations of her role spurred her to quit: 'I didn't want to do that [the team manager role] because I didn't want to do the Home Office's work, which I felt it would be. I did feel quite powerless... (Independent advocate LA 3). Social workers are torn by opposing pressures of the Home Office on one hand, and the duties and responsibilities of children's services on the other.

Moreover, as more experienced social workers leave the profession, newly qualified social workers were reported as being employed. A personal advisor noted that 'you get rid of the older ones because they earn too much money and then you bring in younger ones straight from university because you can pay them half price' (Personal advisor LA 1). Fewer and less well qualified or experienced social workers, it was said, can leave young people without a social worker for months. This can have an impact on their legal case as young people may fail to access expert advice at a crucial stage in their asylum claim as a social worker explained 'the UASC team at the moment I know that they are really under strain, completely. I know that they are completely understaffed because they are hiring three students. I'm not sure that is completely wise because they are under-qualified and it is a really complex area' (Social worker LA 1).

#### *Discretion and everyday resistance*

Room for manoeuvre to define and enact children's best interests often relies on the experience of social workers. For example, one social worker who was not under such strict

managerial control and had worked in her role for decades commented that she complies with the Home Office legislation but ensures that she protects children where she can: ‘I’ve never shared an age assessment with the Home Office. I just provide the back sheet. You have to work with the Home Office but there are things you can do’ (Social worker LA 4). Tactics also rely on long-standing and trusting relationships between statutory and non-statutory workers. However, these relationships are damaged by high staff turnover; increasingly strict patrolling of social workers’ time and duties; and the decline of NGOs working on these issues. One NGO worker commented how social workers used their discretion to uphold their definition of a child’s best interests,

‘I had one social worker call up and say, “this is what my manager’s saying... I can’t say this to the young person or anybody. Why don’t you consider getting them a solicitor to challenge it?” This happens when you have a really good relationship with social workers. I can find ways to challenge things higher up that social workers can’t’ (NGO worker LA 4).

However, without close and long-standing relationships between statutory and non-statutory workers these tactics cannot be deployed to protect the erosion of children’s best interests.

Increasing subcontracting of services reshapes the relationships between different organisations supporting lone children with migration issues. For example, LAs commission private housing companies to provide accommodation for former UASC care leavers. Housing providers are solely funded by LAs who, in turn, receive a grant from the Home Office. Larger, ‘for-profit’ housing providers can provide cheaper housing. They also employ support workers who are constrained by targets and limited funding, reducing relationship building and capacities for resistance. For example, housing support workers witnessed Home Office staff entering accommodation to deport a young person: ‘It was horrendous...Yes I mean he was in tears, kind of begged me to stop them, but I couldn’t

really do anything, so they took him and the other three [young people] absolutely lost it, they were like ‘Who are these people, what happened to our friend, why did they come to our house’. And unfortunately we can’t do anything you know. We can’t hide them or stop them from coming into our house, stop the Home Office from coming to our houses. It is a very difficult position to be in’ (Housing support worker LA 4).

Not only do housing providers witness young people being taken into detention with a sense of powerlessness, they are also co-opted to enforce border regulations. As one housing support worker stated, ‘Yes we have had to evict people because they have turned twenty-one but they still didn’t have a decision. But we just have to do what we are told.’ (Housing support worker LA 1). As the funding for housing is provided directly from the LA who gains a grant from the Home Office, the subcontracted housing support worker becomes the ‘face of the state’ enforcing border controls to make a former unaccompanied child destitute and homeless. However, the *raison d’être* of the housing provider is significant. For example, one manager of a large private housing provider that operates in many cities across England responded to their role of enforcing border regulations with a sense of resignation, ‘we are a housing provider and not a charity’ (for-profit housing manager LA 1). In contrast, a smaller not-for-profit organisation in one area is trying to establish a new system for those who become destitute ‘what I am trying to do is I am trying to find money, if I can find the money, if I can get someone to fund me, I could open another house. And I could open a house that helps destitute people; that at least gives them something to eat, somewhere to sleep, whilst everything is ongoing’ (not-for-profit housing manager LA 4).

Similar differences were reflected in legal representation. Private solicitors maintained that they could not offer free legal advice for lone children who fell outside the increasingly strict criteria for legal aid. However, legal centres described how ‘we try and work out what we might be able to do and how we can get round it. Like the last set of big

cuts, the cuts to legal aid that meant that half of the cases that had been funded up until that time were no longer funded. And so we have had to think about either devising new ways of doing things or what we will do for free' (Law centre solicitor LA 3).

This section has reviewed how statutory and non-statutory frontline workers' actions converge or conflict under the trend towards redefining children's best interests through weakening the capacities of social workers and their link with the children they support. The narratives of frontline workers reveal differences between non-statutory for profit and not-for-profit actors. Although there has been a delegation of power to external agencies, this diffusion of duties does not represent a weakening of state power but rather a reformulation through 'discretion', targets and funding streams. Spaces to form relationships that might incubate tactics of everyday resistance are lost at the same time as room for manoeuvre is tightened.

## **Conclusions**

This article has argued that the principle of the 'best interests of the child' is being reconfigured through expanding market logics in the asylum system, leading to prioritising cost over care of lone children and young people. The new push towards privatising services and the weakening of their link with LAs are restricting social workers' capacity to define and act upon their assessment of a child's best interests.

We identified how changes introduced to the protection system in line with the consolidation of an asylum industry in the UK since recent austerity measures has shaped services in three ways. First, we explored the tensions that emerge due the many different priorities in the governance of unaccompanied children. Increasing distance between the aims of managers and those at the frontline is exacerbated by the emergence of new actors operating within not-for-profit and for-profit logics leaving unaccompanied children in



bureaucratic limbo. Second, we traced the formal and informal systems of out-of-county placement and the different justifications through which unaccompanied children are increasingly relocated to different areas of the UK. While this does not *per se* result in the erosion of best interests, we argue that when the primary rationale of the relocation is making budget savings, it may result in young people being accommodated at great distance with severe impacts on their social networks and their capacity to access their social worker is curtailed. Third, we examined new paths of everyday resistance to the advancing marketization of child asylum seekers and the coping strategies of frontline workers as they balance the conflicting rationales of migration control, budget cuts and best interests of the child. However, restructuring and mainstreaming UASC children's services due to restricted resources has diluted or misplaced the expertise needed in this complex area. Experienced social workers are replaced by the newly qualified, intensifying this process. In addition, staff turn-over unsettles the longstanding relationships that can incubate tactics of resistance. These relationships are more difficult to establish and maintain due to commissioning arrangements and private partnerships.

The article has illustrated how changes in the governance of UASCs may jeopardise the relationship between social workers, other frontline workers and lone children, which previously protected them from the pervading 'hostile climate' for all asylum seekers. The contradictions between frontline workers' professional standards and the terms through which they are able to fulfil their statutory duties are heightened, restricting spaces for resistance and reconfiguring 'best interests' in ways which are detrimental to the wellbeing of children and young people.

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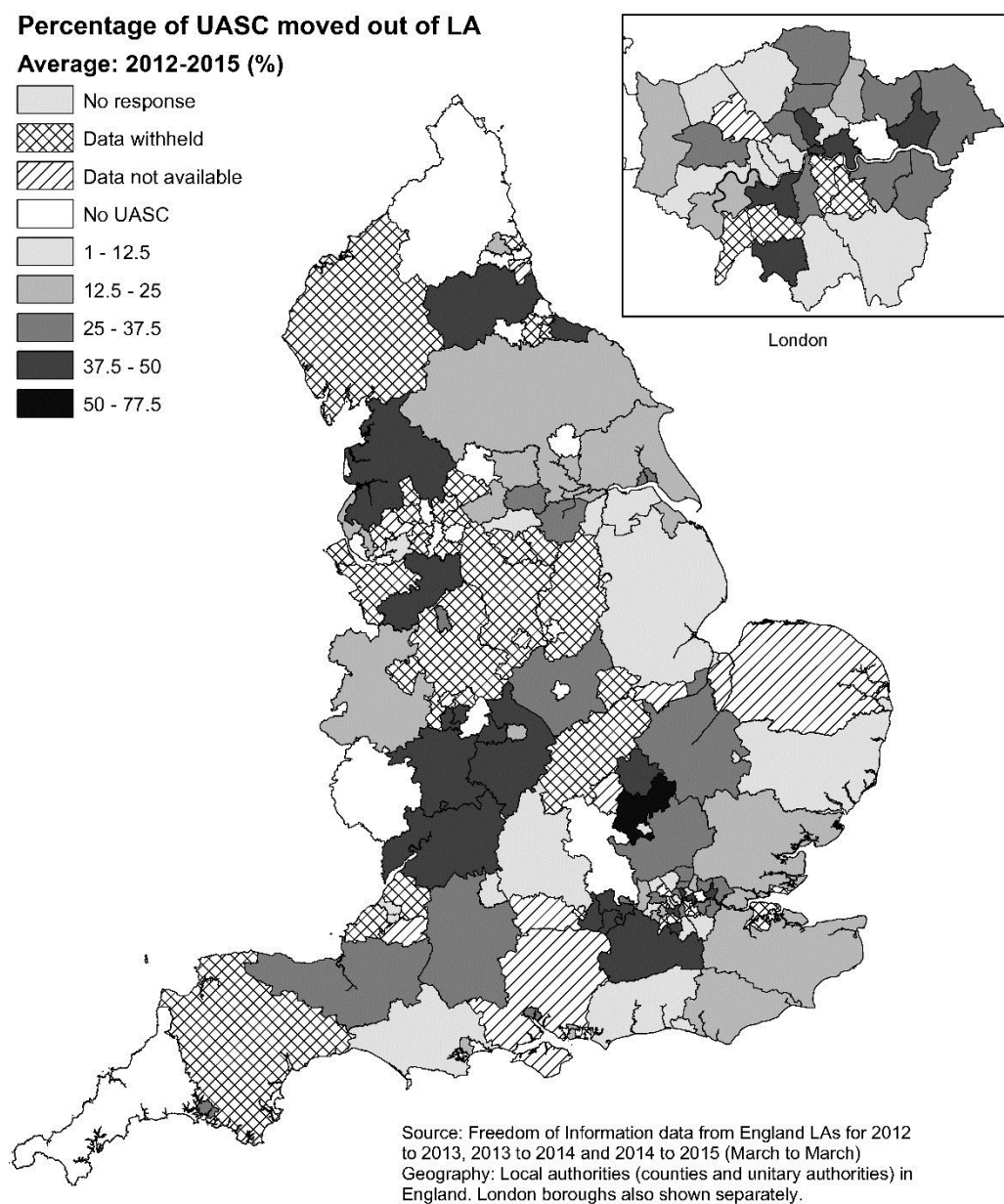


**Table 1: Geographical placement and knowledge of placement by year**

	2013	2014	2015
Placed outside responsible LA	616	632	872
Known to LA where placed	147	86	57
Total number of UASC in England (FOI data)	1866	1939	2542

## Map 1: UASC moved to a different LA: England 2012 - 2015

### ***M.4: Unaccompanied Asylum Seeking Children (UASC)*** **UASC moved to a different Local Authority: England 2012-15**



## Appendix

Location code	LA type
1	London Borough Council
2	Unitary Authority
3	Metropolitan District Council
4	Non-metropolitan District Council

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<sup>i</sup> An unaccompanied asylum seeking child is defined by UK legal guidance as ‘a child who is applying for asylum in their own right and is separated from both parents and is not being cared for by an adult who in law or by custom has responsibility to do so’. “Unaccompanied child” is used with the same meaning throughout the article for brevity.

<sup>ii</sup> A ‘care leaver’ is defined as a young person who has reached the age of 18 who was previously a child who had been in the care of the LA as defined by the Children Act 1989.

<sup>iii</sup> It is beyond the scope of this paper to fully address the complex issue of defining the ‘best interests’ of children and how this concept is operationalised in policy and practice in the UK. A great deal of research has offered critique and recommendations regarding unaccompanied children’s best interests (Bhabha 2009; Engebrigtsen 2003; Hek 2012; Kohli 2007; Wright 2014)

<sup>iv</sup> Statutory public services are required by law enshrined in legal statutes whereas non-statutory public services are based on customs, precedents or previous court decisions. Non-statutory service can include organisations that are funded by government and those that are either funded by profits; fundraising or voluntary contributions.

<sup>v</sup> This lack of knowledge is increasingly problematic due to the changes in statutory duties ushered in by the Immigration Act in May 2016. If an unaccompanied child has not made a successful protection claim when they reach 18 years old, they will no longer fall under the Care Leaver Act but will become a ‘failed adult asylum seeker’ with minimal access to support and legal pathways to settlement.

<sup>vi</sup> Young people who are in need of foster care whether they have migration status issues or not, can be subject to out-of-county placements around the UK. However, unaccompanied children have specific issues that are exacerbated by movement from their social worker.

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Social workers consistently stated that the main differences between UASC and other looked after children was the lack of history and awareness of the child's 'background'. This lack of information about a child is intensified by moving young people around the country.